

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 DAVID PILLATOS,

8 Plaintiff,

9 v.

10 CAPT. SPENCER, *et al.*,

11 Defendants.

Case No. C07-5399 FDB

ORDER ADOPTING REPORT AND  
RECOMMENDATION DISMISSING  
COMPLAINT WITH PREJUDICE

12 This matter comes before the Court on the Report and Recommendation of the Magistrate  
13 Judge that Defendants' motion for summary judgment seeking dismissal of Plaintiff's civil rights  
14 claims complaint be granted. Plaintiff alleges that while confined in the Pierce County Detention and  
15 Corrections Center (PCDCC) he was subjected to in-cell restraints, lockdowns, placement on suicide  
16 watch, and denial of outdoor exercise that constitutes cruel and unusual punishment in violation of  
17 the Eighth and Fourteenth Amendments. Plaintiff also alleges a violation of substantive due process.  
18 Defendants assert they are entitled to summary judgment for failure of Plaintiff to exhaust  
19 administrative remedies and lack of evidence to support a violation of constitutional rights.

20 As detailed by the Magistrate Judge, even accepting Plaintiff's allegations as true, there were  
21 no substantive deprivations. There is no evidence that the lockdowns were not justified or that they  
22 were oppressive or constituted cruel and unusual punishment. The record reflects that Plaintiff  
23 claims no injuries and suffered none, he was engaged in destructive activities necessitating the in-cell  
24 restraints, the restraints were used for a short period of time and Plaintiff was monitored by  
25 corrections officers and medical personnel. There also exist sufficient evidence to support the


1 placement on suicide watch. In addition Plaintiff has not alleged and there is no evidence that he was  
2 subjected to pain or deprived of the basic human needs, such as adequate food, clothing, shelter,  
3 sanitation and medical care during the period of suicide watch.

4 Plaintiff's due process claim is also subject to summary judgment dismissal. Plaintiff does not  
5 have a right to be housed in any particular unit of the PCDCC and his allegations can be attributed to  
6 legitimate penological interest. There is no basis for the allegation that Plaintiff was wrongfully  
7 denied infractions and/or disciplinary hearings.

8 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L.  
9 Strombom, objections to the Report and Recommendation, if any, and the remaining record, does  
10 hereby find and ORDER:

- 11 (1) The Court adopts the Report and Recommendation;
- 12 (2) Defendants' motion for summary judgment [Dkt. # 27] is **GRANTED**;
- 13 (3) Plaintiff's Complaint [Dkt. # 4] is **Dismissed with Prejudice**; and
- 14 (4) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants  
15 and to the Hon. Karen L. Strombom.

16 DATED this 11<sup>th</sup> day of August, 2008.

17  
18  
19   
20 FRANKLIN D. BURGESS  
21 UNITED STATES DISTRICT JUDGE  
22  
23  
24  
25  
26